

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5441 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE H.L.GOKHALE Sd/-

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1. Whether Reporters of Local Papers may be allowed
to see the judgements? No

2. To be referred to the Reporter or not? No

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3. Whether Their Lordships wish to see the fair copy
of the judgement? No

4. Whether this case involves a substantial question
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder? No

5. Whether it is to be circulated to the Civil Judge?
No

MOHAMAD HUSEN JAMALUDDIN SHAIKH

Versus

STATE OF GUJARAT

Appearance:

MR AJ PATEL for Petitioners

MR MA BUKHARI ASTT. GOVT. PLEADER

for Respondent No. 1, 2

CORAM : MR.JUSTICE H.L.GOKHALE

Date of decision: 26/08/97

ORAL JUDGEMENT

Rule. Mr. Bukhari, AGP appears for the
respondents and waives the service of Rule. Mr. Patel,
learned counsel for the petitioners and Mr. Bukhari, AGP
have made their submissions. The present petition is

about certain lands situated on the outskirts of Ahmedabad. It is a new tenure land and for permitting construction thereon, the Collector of Ahmedabad by his order dt. 9th July, 1997 has directed the petitioners to pay the premium at the rate of not less than Rs.7,000/per sq.mt. Mr. Patel submitted that it is unconscionable considering that the land is on the outskirts of Ahmedabad and if this is the rate for permission to construct, the costs of construction will go up like anything. Mr. Bukhari, AGP, appearing for the respondent Collector states that the land prices in the particular area have gone up and therefore defends in order. In my view, it will be proper, if the petitioners are permitted to lead the evidence before the Collector and thereafter the Collector should pass the appropriate order.

2. The impugned order states that the petitioners have to deposit the premium at the rate of Rs.7,000/per sq.mts. It further states that the Collector will decide as to what will be the amount to be calculated at 80% of the market price of the land and if it is found to be more, then the petitioners will have to pay the difference. As against that Mr. Patel points out that the original grant dt. 15th July, 1997 provided for payment of 50% of amount before starting construction. He submits that the petitioners would also like to make submission in this behalf before the Collector.

3. Both the submissions of Mr. Patel are well taken and it will be proper, if the Collector applies his mind on both these grounds namely as to what should be the correct premium and secondly whether the amount at the rate of 80% can be insisted upon, when the original grant provided for 50% ? The impugned order dt. 9th July, 1997 is accordingly set aside. The Collector will rehear the petitioners on both the above submissions. The petitioners will be at liberty to produce necessary material before the Collector where after the Collector is expected to pass a reasoned order. The Collector will decide the application of the petitioners as expeditiously as possible, and preferably within four months from the date of the receipt of the writ of this court. Rule is made absolute accordingly with no order as to costs.

Direct service permitted.
